FORM PTO-1083

Docket No.: 6001.1283
Date: September 13, 2006

Mail Stop: APPEAL BRIEF PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

In re application of: **Kent Dirksen KASPER et al.**
Serial No.: 10/628,652
Filed: July 28, 2003
For: **FLUID SUPPLY DEVICE FOR A PRINTING MACHINE**

S i r:

Transmitted herewith is a **Appeal Brief with Appendixes A, B, C (21 pages)** in the above-identified application.

[ ] Also transmitted herewith are:
[ ] Petition for extension under 37 C.F.R. 1.136
[ ] Other:

[X] Check(s) in the amount of **$500.00** is/are attached to cover:
[ ] Filing fee for additional claims under 37 C.F.R. 1.16
[ ] Petition fee for extension under 37 C.F.R. 1.136
[X] Other: **Appeal Fee**

[X] The Assistant Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 50-0552.

[X] Any filing fee under 37 C.F.R. 1.16 for the presentation of additional claims which are not paid by check submitted herewith.
[X] Any patent application processing fees under 37 C.F.R. 1.17.
[X] Any petition fees for extension under 37 C.F.R. 1.136 which are not paid by check submitted herewith, and it is hereby requested that this be a petition for an automatic extension of time under 37 CFR 1.136.

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I hereby certify that the documents referred to as attached therein and/or fee are being deposited with the United States Postal Service as "first class mail" with sufficient postage in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on Sep. 13, 2006.
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By: _____
Jan Decker

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant:	**KASPER et al.**	Examiner:	Ren Luo Yan
Serial No.:	10/628,652	Confirmation No.:	4422
Filing Date:	July 28, 2003	Art Unit:	2854
Customer No.:	23280	Attorney Docket:	6001.1283

Title: **FLUID SUPPLY DEVICE FOR A PRINTING MACHINE**

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September 13, 2006

APPELLANTS' BRIEF UNDER 37 C.F.R. § 41.37

Sir:

Appellants submit this brief for the consideration of the Board of Patent Appeals and Interferences (the "Board") in support of their appeal of the Final Rejection dated April 12, 2006 in this application. The statutory fee of $500.00 for filing an appeal brief is paid concurrently herewith.

I. REAL PARTY IN INTEREST

The real party in interest is Goss International Americas, Inc., a corporation having a place of business in Dover, New Hampshire, and the assignee of the entire right, title and interest in the above-identified patent application. The invention was assigned to Heidelberger Druckmaschinen AG by an assignment originating from inventors Kent Dirksen Kasper and Stephen Arthur Austin. The most recent conveyance was recorded on October 20, 2004 at reel 015886, frame 0713.

II. RELATED APPEALS AND INTERFERENCES

Appellants, their legal representatives, and assignee are not aware of any appeal, interference or judicial proceeding that directly affects, will be directly affected by, or will have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

Claims 1 to 9, 12 to 14, 16 to 18 and 20 to 23 are pending. Claims 1 to 9, 12 to 14, 16 to 18 and 20 to 23 have been finally rejected as per the Final Office Action dated April 12, 2006. Claims 10, 11, 15 and 19 have been canceled without prejudice.

The rejection to claims 1 to 9, 12 to 14, 16 to 18 and 20 to 23 thus is appealed. A copy of appealed claims 1 to 9, 12 to 14, 16 to 18 and 20 to 23 is attached hereto as Appendix A.

IV. STATUS OF AMENDMENTS AFTER FINAL

No amendments to the claims were filed after the final rejection. An advisory action was issued on August 2, 2006. A Notice of Appeal was filed on July 11, 2006 and received by the U.S.P.T.O. on July 13, 2006.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

Independent claim 1 recites a fluid delivery device (i.e. Fig. 1, i.e. specification at paragraph [0023]) for a printing machine (i.e. 30 in Fig. 1, i.e. specification at paragraph [0023]) comprising: a rotating roller (i.e. 14 in Fig. 1, i.e. specification at paragraph [0023]) having a roller surface (i.e. 16 in Fig. 1, i.e. specification at paragraph [0023]) with a roller radius of curvature (i.e. specification at paragraph 25), the roller surface (i.e. 16 in Fig. 1, i.e. specification at paragraph [0023]) carrying a fluid film (i.e. 13 in Fig. 2, i.e. specification at paragraph [0028]); and a metering element (i.e. 20 in Fig. 1, i.e. specification at paragraph [0024]) having an edge (i.e. 36 in Fig. 1, i.e. specification at paragraph [0024]) for splitting the fluid film (i.e. 13 in Fig. 2, i.e. specification at paragraph [0028]) and a first concave surface (i.e. 22 in Fig. 1, i.e. specification at paragraph [0024]) facing the roller surface (i.e. 16 in Fig. 1, i.e. specification at paragraph [0024]); the metering element (i.e. 20 in Fig. 1, i.e. specification at paragraph [0024]) being movable with respect to the roller surface (i.e. 16 in Fig. 1, i.e. specification at paragraph [0024]) so that the edge (i.e. 36 in Fig. 1, i.e. specification at paragraph [0024]) moves along a radial line (i.e. 35 in Fig. 1, i.e. specification at paragraph [0025]) from a center of the rotating roller (i.e. 14 in Fig. 1, i.e. specification at paragraph [0023]).

Independent claim 12 recites a method for metering fluid in a printing press (i.e. 30 in Fig. 1, i.e. specification at paragraph [0023]) having an operating speed comprising the steps of: supplying fluid to a supply container (i.e. 12 in Fig. 1, specification at paragraph [0025]); rotating a roller (i.e. 14 in Fig. 1, i.e. specification at paragraph [0023]) so as to form a film (i.e. 13 in Fig. 2, specification at paragraph [0028]) of the fluid on a surface (i.e. 16 in Fig. 1, i.e. specification at paragraph [0024]) of the roller (i.e. 14 in Fig. 1, i.e. specification at paragraph [0023]); and splitting the film (i.e. 13 in Fig. 2, specification at paragraph [0028]) using a metering element (i.e. 20 in Fig. 1, i.e. specification at paragraph [0024]), the metering element (i.e. 20 in Fig. 1, i.e. specification at paragraph [0024]) having a concave surface (i.e. 22 in Fig. 1, i.e. specification at paragraph [0024]) facing the surface (i.e. 16 in Fig. 1, i.e. specification at paragraph [0024]) of the roller (i.e. 14 in Fig. 1, i.e. specification at paragraph [0023]); wherein metering element (i.e. 20 in Fig. 1, i.e. specification at paragraph [0024]) has an edge (i.e. 36 in

Fig. 1, i.e. specification at paragraph [0024]) movable solely in a radial direction with respect to the roller (i.e. 14 in Fig. 1, i.e. specification at paragraph [0023]).

Independent claim 14 recites a fluid delivery device (i.e. Fig. 1, i.e. specification at paragraph [0023]) for a printing machine (i.e. 30 in Fig. 1, i.e. specification at paragraph [0023]) comprising: a rotating roller (i.e. 14 in Fig. 1, i.e. specification at paragraph [0023]) having a roller surface (i.e. 16 in Fig. 1, i.e. specification at paragraph [0023]) with a roller radius of curvature (i.e. specification at paragraph 25), the roller surface (i.e. 16 in Fig. 1, i.e. specification at paragraph [0024]) carrying a fluid film (i.e. 13 in Fig. 2, specification at paragraph [0028]); and a metering element (i.e. 20 in Fig. 1, i.e. specification at paragraph [0024]) having an edge (i.e. 36 in Fig. 1, i.e. specification at paragraph [0024]) for splitting the fluid film (i.e. 13 in Fig. 2, i.e. specification at paragraph [0028]) and a first concave surface (i.e. 22 in Fig. 1, i.e. specification at paragraph [0024]) facing the roller surface (i.e. 16 in Fig. 1, i.e. specification at paragraph [0024]); the metering element (i.e. 20 in Fig. 1, i.e. specification at paragraph [0024]) being movable with respect to the roller surface (i.e. 16 in Fig. 1, i.e. specification at paragraph [0024]); wherein the metering element (i.e. 20 in Fig. 1, i.e. specification at paragraph [0024]) has a second concave surface (i.e. 24 in Fig. 1, i.e. specification at paragraph [0024]) opposite the first concave surface (i.e. 22 in Fig. 1, i.e. specification at paragraph [0024]).

Independent claim 16 recites a fluid delivery device (i.e. Fig. 1, i.e. specification at paragraph [0023]) for a printing machine (i.e. 30 in Fig. 1, i.e. specification at paragraph [0023]) comprising: a rotating roller (i.e. 14 in Fig. 1, i.e. specification at paragraph [0023]) having a roller surface (i.e. 16 in Fig. 1, i.e. specification at paragraph [0023]) with a roller radius of curvature (i.e. specification at paragraph 25), the roller surface (i.e. 16 in Fig. 1, i.e. specification at paragraph [0024]) carrying a fluid film (i.e. specification at paragraph [0027]); and a metering element (i.e. 20 in Fig. 1, i.e. specification at paragraph [0024]) having an edge (i.e. 36 in Fig. 1, i.e. specification at paragraph [0024]) for splitting the fluid film (i.e. 13 in Fig. 2, specification at paragraph [0028]) and a first concave surface (i.e. 22 in Fig. 1, i.e. specification at paragraph [0024]) facing the roller surface (i.e. 16 in Fig. 1, i.e. specification at paragraph [0024]); the metering element (i.e. 20 in Fig. 1, i.e. specification at paragraph [0024]) being movable with

respect to the roller surface (i.e. 16 in Fig. 1, i.e. specification at paragraph [0024]); wherein the first concave surface (i.e. 22 in Fig. 1, i.e. specification at paragraph [0024]) corresponds to an arc (i.e. A in Fig. 1, i.e. specification at paragraph [0026]) of 10 degrees or more of the roller surface (i.e. 16 in Fig. 1, i.e. specification at paragraph [0024]).

Independent claim 17 recites a fluid delivery device (i.e. Fig. 1, i.e. specification at paragraph [0023]) for a printing machine (i.e. 30 in Fig. 1, i.e. specification at paragraph [0023]) comprising: a rotating roller (i.e. 14 in Fig. 1, i.e. specification at paragraph [0023]) having a roller surface (i.e. 16 in Fig. 1, i.e. specification at paragraph [0023]) with a roller radius of curvature (i.e. specification at paragraph 25), the roller surface (i.e. 16 in Fig. 1, i.e. specification at paragraph [0023]) carrying a fluid film (i.e. specification at paragraph [0027]); and a metering element (i.e. 20 in Fig. 1, i.e. specification at paragraph [0024]) having an edge (i.e. 36 in Fig. 1, i.e. specification at paragraph [0024]) for splitting the fluid film (i.e. 13 in Fig. 2, specification at paragraph [0028]) and a first concave surface (i.e. 22 in Fig. 1, i.e. specification at paragraph [0024]) facing the roller surface (i.e. 16 in Fig. 1, i.e. specification at paragraph [0024]); the metering element (i.e. 20 in Fig. 1, i.e. specification at paragraph [0024]) being movable with respect to the roller surface (i.e. 16 in Fig. 1, i.e. specification at paragraph [0024]); wherein a thickness of the fluid film (i.e. 13 in Fig. 2, specification at paragraph [0028]) downstream from the metering element (i.e. 20 in Fig. 1, i.e. specification at paragraph [0024]) is half of an average distance (i.e. D in Fig. 2, i.e. specification at paragraph [0029]) of the concave surface (i.e. 22 in Fig. 1, i.e. specification at paragraph [0024]) from the roller surface (i.e. 16 in Fig. 1, i.e. specification at paragraph [0023]).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 17 and 21 should be rejected under 35 U.S.C. §102(b) as being anticipated by Granger, U.S. Patent No. 3,709,147. Whether claims 1 to 3, 6 to 9, 12 to 14, 20 and 23 should be rejected under 35 U.S.C. §103(a) as being unpatentable over Shriver, U.S. Patent No. 5,003,875, in view of Granger, U.S. Patent No. 3,709,147. Whether claim 4 should be rejected under 35 U.S.C. §103(a) as being unpatentable over Shriver in view of Granger as applied to claim 1 and further in view of John, U.S. Patent No. 5,044,277. Whether claim 5 should be rejected under 35 U.S.C. §103(a) as being unpatentable over Shriver in view of Granger as applied to claim 1 and further in view of Dahlgren, U.S. Patent No. 3,664,261. Whether claims 16 and 22 should be rejected under 35 U.S.C. §103(a) as being unpatentable over Granger in view of John. Whether claim 18 should be rejected under 35 U.S.C. §103(a) as being unpatentable over Shriver in view of Granger as applied to claim 1 and further in view of Kistler et al., U.S. Patent No. 6,450,097.

VII. ARGUMENTS

A. Rejections under 35 U.S.C. §102(b)

Claims 17 and 21

Claims 17 and 21 were rejected under 35 U.S.C. §102(b) as being anticipated by Granger, U.S. Patent No. 3,709,147.

Granger shows a single inking cylinder 14 with thousands of cells 25 formed on its surface, i.e. what is known in the art as an anilox or short inker. See Granger at col.3 lines 30 to 47.

Claim 17 recites a fluid delivery device for a printing machine comprising:

a rotating roller having a roller surface with a roller radius of curvature, the roller surface carrying a fluid film; and

a metering element having an edge for splitting the fluid film and a first concave surface facing the roller surface;

the metering element being movable with respect to the roller surface;

wherein a thickness of the fluid film downstream from the metering element is half of an average distance of the concave surface from the roller surface.

There is absolutely no disclosure that the thickness downstream is "half an average distance" as claimed (see present specification at [0029]). Due to reservoir pressure and/or the cell nature of the roller, this appears unlikely to occur.

In addition, the Final Office Action specifically states at page 6 ***that it appears that the thickness of the film must be at least half of an average distance***. The Office Action thus admits that there is no clear disclosure as to the film downstream being half, and also seems to admit that in Granger the downstream thickness is not half, but more than half. The Office Action is contradictory and cites to no disclosure in Granger meeting the limitation "wherein a thickness of the fluid film downstream from the metering element is half of an average distance of the concave surface from the roller surface" as recited in claim 17.

Withdrawal of the rejection to claims 17 and 21 is respectfully requested.

B. Rejections under 35 U.S.C. §103(a)

Claims 1 to 3, 6 to 9, 12 to 14, 20 and 23

Whether claims 1 to 3, 6 to 9, 12 to 14, 20 and 23 should be rejected under 35 U.S.C. §103(a) as being unpatentable over Shriver, U.S. Patent No. 5,003,875, in view of Granger, U.S. Patent No. 3,709,147.

Shriver shows a fountain roll and assembly for a can decorating apparatus, with doctor blades 150.

Granger shows an anilox inker with a reservoir control blade 61. It is respectfully submitted that it would not have been obvious to one of skill in the art to have combined the teaching of Granger with that of Shriver.

Claim 1 recites "a metering element having an edge for splitting the fluid film and a first concave surface facing the roller surface."

Shriver admittedly does not have such a first concave surface.

Granger has a concave surface, cut is only to retain pressure in the reservoir. The curved section of Granger permits the reservoir to be properly sealed, not to provide any film splitting capabilities.

Since the blade 150 of Shriver is not in contact with the reservoir, and no sealing is needed, one of skill in the art would not have looked to the curvature of Granger to alter element 150 of Shriver. Moreover, there is no teaching in Granger or Shriver at all that the curved surface improves the accuracy of the "position of the concave surface" as asserted in the Office Action.

In addition, the anilox inker of Granger and can decorating apparatus are completely different types of inking devices, as anilox inkers use cell based structures (which is why Granger has a pressurized reservoir).

Withdrawal of the rejection over Shriver in view of Granger is respectfully requested.

Claim 9: Argued separately

With further respect to claim 9, claim 9 recites the device as recited in claim 1 wherein a thickness of the fluid film downstream from the metering element is half of an average distance of the concave surface from the roller surface.

Neither Granger nor Shriver shows this feature.

Claim 4: Argued Separately

Claim 4 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Shriver in view of Granger as applied to claim 1 above, and further in view of John (5,044,277).

John discloses doctor blades 4 and 5 with a surface 11 in between.

Claim 4 recites that the first concave surface of the metering element has an arc 10 degrees or more of the roller.

The metering elements 4, 5 of John do not have concave surfaces. To the extent surface 11 could somehow be part of a metering element, there is no teaching or disclosure that John discloses a relevant arc of more than 10 percent. Moreover, there is no teaching or proper motivation to combine this dual doctor blade construction with Shriver or Garnger.

Withdrawal of the rejection to claim 4 is respectfully requested.

Claim 5

Claim 5 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Shriver in view of Granger as applied to claim 1 above, and further in view of Dahlgren (3,664,261).

Withdrawal in view of claim 1 is respectfully requested.

Claims 16 and 22: Argued Separately

Claim 16 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Granger in view of John. Claim 22 depends from claim 16.

Claim 16 recites a fluid delivery device for a printing machine comprising:

a rotating roller having a roller surface with a roller radius of curvature, the roller surface carrying a fluid film; and

a metering element having an edge for splitting the fluid film and a first concave surface facing the roller surface;

the metering element being movable with respect to the roller surface;

wherein the first concave surface corresponds to an arc of 10 degrees or more of the roller surface.

Granger does not show a metering element for "splitting a fluid film" as claimed, as there is no film split by Granger. Rather the ink exits from a reservoir which is always full. Moreover, Granger does not disclose that the roller surface carries a fluid film, but rather discloses a cell structure.

In addition, John does not teach or disclose a metering element with a first concave surface corresponding to an arc of 10 degrees or more, as discussed above with respect to claim 4.

Claim 18

Claim 18 was rejected under 35 U.S.C. §103(a) as being unpatentable over Shriver in view of Granger as applied to claim 1 and further in view of Kistler et al., U.S. Patent No. 6,450,097.

In view of the arguments with respect to claim 1, withdrawal of the rejection is respectfully requested.

CONCLUSION

It is respectfully submitted that the application is in condition for allowance. Favorable consideration of this appeal brief is respectfully requested.

Respectfully submitted,

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APPENDIX A:

PENDING CLAIMS 1 to 9, 12 to 14, 16 to 18 and 20 to 23 OF
U.S. APPLICATION SERIAL NO. 10/628,652

Claim 1 (previously presented): A fluid delivery device for a printing machine comprising:

a rotating roller having a roller surface with a roller radius of curvature, the roller surface carrying a fluid film; and

a metering element having an edge for splitting the fluid film and a first concave surface facing the roller surface;

the metering element being movable with respect to the roller surface so that the edge moves along a radial line from a center of the rotating roller.

Claim 2 (original): The device as recited in claim 1 wherein the metering element has a second concave surface opposite the first concave surface.

Claim 3 (previously presented): The device as recited in claim 1 wherein the first concave surface has a radius of curvature similar to that of the roller radius of curvature.

Claim 4 (original): The device as recited in claim 1 wherein the first concave surface corresponds to an arc of 10 degrees or more of the roller surface.

Claim 5 (previously presented): The device as recited in claim 1 wherein the metering element is rigid.

Claim 6 (original): The device as recited in claim 1 wherein the metering element has a horizontal bottom surface.

Claim 7 (previously presented): The device as recited in claim 14 wherein the metering element has an edge movable radially along a line from a radial center of the roller.

Claim 8 (original): The device as recited in claim 1 wherein the fluid is ink.

Claim 9 (original): The device as recited in claim 1 wherein a thickness of the fluid film downstream from the metering element is half of an average distance of the concave surface from the roller surface.

Claim 10 (canceled).

Claim 11 (canceled).

Claim 12 (previously presented): A method for metering fluid in a printing press having an operating speed comprising the steps of:

supplying fluid to a supply container;

rotating a roller so as to form a film of the fluid on a surface of the roller; and

splitting the film using a metering element, the metering element having a concave surface facing the surface of the roller;

wherein metering element has an edge movable solely in a radial direction with respect to the roller.

Claim 13 (previously presented): The method as recited in claim 12 further comprising setting a distance between the concave surface and the surface of the roller.

Claim 14 (previously presented): A fluid delivery device for a printing machine comprising:

a rotating roller having a roller surface with a roller radius of curvature, the roller surface carrying a fluid film; and

a metering element having an edge for splitting the fluid film and a first concave surface facing the roller surface;

the metering element being movable with respect to the roller surface;

wherein the metering element has a second concave surface opposite the first concave surface.

Claim 15 (canceled).

Claim 16 (previously presented): A fluid delivery device for a printing machine comprising:

a rotating roller having a roller surface with a roller radius of curvature, the roller surface carrying a fluid film; and

a metering element having an edge for splitting the fluid film and a first concave surface facing the roller surface;

the metering element being movable with respect to the roller surface;

wherein the first concave surface corresponds to an arc of 10 degrees or more of the roller surface.

Claim 17 (previously presented): A fluid delivery device for a printing machine comprising:

a rotating roller having a roller surface with a roller radius of curvature, the roller surface carrying a fluid film; and

a metering element having an edge for splitting the fluid film and a first concave surface facing the roller surface;

the metering element being movable with respect to the roller surface;

wherein a thickness of the fluid film downstream from the metering element is half of an average distance of the concave surface from the roller surface.

Claim 18 (previously presented): The fluid delivery device as recited in claim 1 further comprising a reducer roll interacting with the rotating roller.

Claim 19 (canceled).

Claim 20 (previously presented): The method as recited in claim 12 wherein the first concave surface has a radius of curvature similar to that of the roller radius of curvature.

Claim 21 (previously presented): The fluid delivery device as recited in claim 17 further comprising a fluid supply container, the roller surface contacting the fluid supply container and the fluid film before splitting exiting the supply container.

Claim 22 (previously presented): The fluid delivery device as recited in claim 16 further comprising a fluid supply container, the roller surface contacting the fluid supply container and the fluid film before splitting exiting the supply container.

Claim 23 (previously presented): The fluid delivery device as recited in claim 1 further comprising a fluid supply container, the roller surface contacting the fluid supply container and the fluid film before splitting exiting the supply container.

APPENDIX B

Evidence Appendix under 37 C.F.R. §41.37 (c) (ix):

No evidence pursuant to 37 C.F.R. §§1.130, 1.131 or 1.132 and relied upon in the appeal has been submitted by appellants or entered by the examiner.

APPENDIX C

Related proceedings appendix under 37 C.F.R. §41.37 (c) (x):

As stated in "2. RELATED APPEALS AND INTERFERENCES" of this appeal brief, appellants, their legal representatives, and assignee are not aware of any appeal or interference that directly affects, will be directly affected by, or will have a bearing on the Board's decision in this appeal.